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15

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,743	10/26/2001	Balakrishnan Shankar	SJ1-026US	9121
36802	7590	11/16/2004	EXAMINER	
PACESETTER, INC. 15900 VALLEY VIEW COURT SYLMAR, CA 91392-9221			OROPEZA, FRANCES P	
			ART UNIT	PAPER NUMBER
			3762	

DATE MAILED: 11/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

CS

**Office Action Summary**

Application No.

10/039,743

Applicant(s)

SHANKAR ET AL.

Examiner

Frances P. Oropeza

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 October 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-12 and 15-26 is/are rejected.
- 7) ☒ Claim(s) 13 and 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Response to Amendment***

1. When the claim limitation of “communication circuitry” was read broadly, it was recognized prior art exists that reads on the previously allowable subject matter, hence a new grounds of rejection is established in the subsequent paragraphs.

***Claim Rejections - 35 USC § 102***

2. Claims 2-8, 10, 11, 15-17, 19, 20 and 22-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Haubrich (US 6379300). Haubrich discloses and implanted device (10) with an enclosure (12) and header, antenna (20a), a diplexer (26, 30, 32, 34), an RF transceiver (24), feedthroughs (22) and pacing/ sensing circuitry (28). The enclosure (12) is read as the first chamber and the header is read as the second chamber, the second chamber containing communication circuitry, an antenna and diplexer. The antenna is read as a transceiver since, as part of the transceiver, it is used for both reception and transmission (figure 2; col. 2 @ 47 – col. 3 @ 23; col. 3 @ 46 – col. 4 @ 24). US 5697958 to Paul et al. is incorporated by reference (col. 1 @ 22-31) to teach the antenna in the header (abstract). US 5861019 to Sun et al. is incorporated by reference (col. 1 @ 22-31) to teach the antenna integrated into the casing (abstract).

***Claim Rejections - 35 USC § 103***

3. Claims 9, 18 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haubrich (US 6379300) in view of Bardy (US 6312378). As discussed in paragraph 2 of this

action, Haubrich discloses the claimed invention except for the implanted device being linked to a computing network.

Bardy teaches data management using a computing system (14, 15, 16, 17) connected to an implantable device (12) for the purpose of automatically collecting and analyzing patient information. It would have been obvious to one having ordinary skill in the art at the time of the invention to have used a computing system connected to an implantable device in the Haubrich system in order to enable remote patient care so trends in the patient's condition can be recognized and a determination made regarding the need for intervention (figure 1; col. 1 @ 8-12; col. 2 @ 41-49).

4. Claims 12 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haubrich (US 6379300) in view of Ware (US 4314562). As discussed in paragraph 2 of this action, Haubrich discloses the claimed invention except for the second chamber being encompassed in the first chamber.

Ware teaches implantable system enclosures using chambers (cups with covers) for the purpose of electrically isolating system components. Absent any teaching of criticality or unexpected results, it would have been obvious to enclose the diplexer within a second chamber that is encompassed in the first chamber as a mere substitute of known functionally equivalent housing structures (figures 1, 9; col. 3 @ 6-9).

*Allowable Subject Matter*

5. Claims 13 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Statutory Basis*

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

*Conclusion*

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Fran Oropeza, telephone number is (571) 272-4953. The Examiner can normally be reached on Monday – Friday Thursday from 9 a.m. to 5:30 p.m.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Angela D. Sykes can be reached on (571) 272-4955. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for regular communication and for After Final communications.

Frances P. Oropeza  
Patent Examiner  
Art Unit 3762

*FP*  
*11/12/04*

*Angela D. Sykes*

**ANGELA D. SYKES  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700**